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APPLICATION NO.	F	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/039,061		01/02/2002	Boas Betzler	POU901066US1	9115	
46369	7590	06/20/2006		EXAM	INER	
HESLIN F		BERG FARLEY &	MESITI P.C.	SCUDERI, PHILIP S		
ALBANY,				ART UNIT	AMINER ERI, PHILIP S PAPER NUMBER	
ŕ				2153		
				DATE MAIL ED: 06/20/2006		

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief

Application No.		Applicant(s)
	10/039,061	BETZLER, BOAS
	Examiner	Art Unit
	Philip S. Scuderi	2153

-The MALINIO DATE of this communication appears on the cover sheet with the correspondence address - THE REPLY ELED 65_June_2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. 1. ☐ The reply was field after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file not of the following replies: (1) an amendment, affation, or other verdence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a			Timp 6: 66ddeil			
1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidiavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.13.1; or (3) a Request for Continued Examination (RCC) in compliance with 37 CFR 1.13.1.4. The reply must be filed within one of the following time periods: a) ☐ The period for reply expiresmonths from the mailing date of the final rejection. b) ☑ The period for reply expiresmonths from the mailing date of the final rejection, whichever is later. In no event, however, with the statutory period for reply expires on: (1) the mailing date of the final rejection, whichever is later. In no event, however, with the statutory period for reply expires than SIX MONTHS for the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIANL REJECTION. See MPEP 706.7(f). Extensions of time may be obtained under 37 CFR 1.135(a). The date on which the petition under 37 CFR 1.135(a) and the appropriate extension fee set forth in (b) above. If checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, any reduce any areander patent term adjustment. See 37 CFR 1.137(4b). NOTICE OF APPEAL 2. ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 4.1.37 (e), to avoid dismissal of the appeal. Since a Notice of Appeal as Been filed, any reply must be filed within the time period set forth in 37 CFR 4.1.37(e), a Notice of Appeal and filed and file	The MAILING DATE of	this communication appe	ars on the cover shee	t with the co	orrespondence add	ress
this application, applicant must timely file one of the following regibes: (1) an amendment, affidavit, or other evidence, which places the application in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) The period for reply expiresmonths from the mailing date of the final rejection. b) The period for reply expiresmonths from the mailing date of the final rejection, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire a superiod for reply expiresmonths from the mailing date of the final rejection. Examiner Note: If box 15 is checked, check either box (2) or (5). ONLY CHECK BOX (5) UNHEN THE FIRST REPLY VAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See NPEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.138(g). The date on which the petition under 37 CFR 1.138(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee save them filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee set forth in (b) about, if checked. Any very precisevel by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL. The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37(a), to avoid dismissal of the date of filing the holice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will ingly be entered because that wo	THE REPLY FILED 05 June 2006 F	AILS TO PLACE THIS APP	LICATION IN CONDITI	ON FOR AL	LOWANCE.	
b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, which however, will the statutory period for reply expire later than SIX MONTHS for the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MEPE 760 57(f). Extensions of time may be obtained under 37 CFR 1.135(a). The date on which the petition under 37 CFR 1.135(a) and the appropriate extension fete under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any serned patent term adjustment. See 37 CFR 1.70(b). Control of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal and seen filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS If the proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: (See 37 CFR 1.136 and 41.33(a)). (d) They proposed a mendment are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). (e) The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amend	this application, applicant mus places the application in cond a Request for Continued Exar time periods:	at timely file one of the follow ition for allowance; (2) a No nination (RCE) in compliance	wing replies: (1) an ame stice of Appeal (with app se with 37 CFR 1.114. T	ndment, affice leal fee) in co he reply mus	davit, or other eviden ompliance with 37 CF	ce, which FR 41.31; or (3)
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how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) rejected to: Claim(s) rejected: Claim(s) rejected: Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE 8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheets. 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). Discription B. BURGESS SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 2100	6. Newly proposed or amended			a separate, ti	mely filed amendme	nt canceling the
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Application/Control Number: 10/039,061

Art Unit: 2153

ADVISORY ACTION

Applicant's arguments filed on 05 June 2006 have been fully considered but they are not persuasive. Therefore, pending claims 1, 2, 6-8, 10, 11, 15-18, 20-22, and 26-28 all stand rejected.

Applicant contends that U.S. Publication No. 2003/0112823 to Collins et al. ("Collins") does not teach "responsive to the employing, establishing by the first wireless device direct instant messaging communication between the first wireless device and a second wireless device without further employing the instant messaging server" (response, pages 2-4).

The examiner agrees that Collins does not teach the limitation in reference to figure 4a because the invitation is directed through the rendezvous service (the instant messaging server) (paragraph 0039, lines 9-10). However, in reference to figure 4b, Collins shows a system that meets the claims.

In references to figure 4b, Collins teaches a situation wherein device 100 establishes a direct connection to device 112. If a first attempt to establish a direct connection fails, then "device 100 now attempts, in step 520, to establish communications flow 410 with device 112." (paragraph 0040, lines 26-28). As shown in figure 4b, establishing communications flow 410 does not employ rendezvous service 400. In reference to figure 4b, device 100 corresponds to the claimed first wireless device, device 112 corresponds to the claimed second wireless device, and rendevous service 400 corresponds to the claimed instant messaging server.

Applicant contends that paragraph 0023 of the specification defines a piconet as "a network of devices connected in an ad hoc fashion using direct connection wireless technology, such as Bluetooth technology (response, page 5).

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The examiner respectfully disagrees. The specification clearly states that "<u>a piconet is used</u> <u>herein to mean</u> any wireless network with direct peer-to-peer capabilities" (paragraph 0023, lines 11-13) (emphasis added).

As the examiner stated in the last Office action, the claims read on establishing a direct connection between two instant messaging clients. Examples of instant messaging clients that the examiner was referring to are AOL Instant Messenger (AIM) clients, MSN Messenger clients, and ICQ clients. The Collins reference is merely an example of an instant messaging client that establishes a direct connection and happens to read on the claims.

Based on the examiner's knowledge of the art, it is likely that other prior art references exist that teach generic instant messaging clients that login to a centralized instant messaging server and establish direct connections based on a list of active clients (e.g., an AIM buddy list) sent from such a centralized server. In fact, in reference to figure 4a, Collins states that "[t]he invitation is sent to the rendezvous service <u>rather than directly to the device 100</u>" (paragraph 0039, lines 9-11) (emphasis added), which suggests that in systems prior to the Collins reference the invitations were sent directly and not through a rendezvous service.

The invention disclosed in the specification almost certainly contains differences from such prior art systems. However, such differences are currently not brought out in the claims. To advance prosecution of the instant application, the examiner recommends bringing such differences out in the claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip S. Scuderi whose telephone number is (571) 272-5865. The examiner can normally be reached on Monday-Friday 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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